



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 19 2013

Treva Johnson for Congress
and Larry Pendry, as treasurer
3008 Bethany Ford Road
Roaring River, NC 28669

RE: MUR 6580

Dear Mr. Pendry:

On May 31, 2012, the Federal Election Commission notified Treva Johnson for Congress and you in your official capacity as treasurer (collectively, the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 11, 2013, based upon the information contained in the complaint, and information provided by the Committee, the Commission decided to dismiss the complaint and closed its file in this matter.

The Commission encourages the Committee to review the Factual & Legal Analysis, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. A copy is enclosed for your information and future reference. In particular, the Commission reminds the Committee to take steps to ensure that the Committee files its quarterly disclosure reports with the Commission no later than fifteen days after the last day of each calendar quarter, as provided in 2 U.S.C. § 434(a)(2)(A)(iii). For further information on the Act, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

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If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Anthony Herman
General Counsel

Jeff S. Jordan /jh/

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure:
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Treva Johnson for Congress and
Larry Pendry as treasurer

MUR 6580

I. INTRODUCTION

This matter was generated by a Complaint filed by Scott E. Laster alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Commission voted to dismiss the allegations.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that Treva Johnson for Congress and Larry Pendry in his official capacity as treasurer (collectively the "Committee") violated the reporting requirements under 2 U.S.C. § 434(a)(2)(A)(iii) by failing to file any quarterly reports after raising over \$5,000 and, thereby, qualifying as a candidate under 2 U.S.C. § 431(2) and 11 C.F.R. § 100.3. Compl. at 1. The Complaint states that Treva Johnson's ActBlue fundraising website page indicated that she had raised at least \$5,484 as of January 19, 2012. Compl. at 1, 4. The Complaint also includes a screenshot of an FEC Summary Report page, which shows that Treva Johnson had not filed any disclosure reports as a candidate for North Carolina's Fifth Congressional District. Compl. at 14.

The Committee concedes that it received over \$5,000 in contributions by the end of December 2011 and failed to file either a 2011 Year-End Report or a 2012 April Quarterly Report, as required by the Act. Resp. at 1. The Committee offers that its failure to file was due

1 to a clerical oversight. *Id.* More specifically, the Committee attached to its Response both its
2 2011 Year-End Report¹ and 2012 April Quarterly Report² dated July 19, 2012.³

3 Notably, the Committee has since failed to file its 2012 July Quarterly Report, 2012
4 October Quarterly Report, and 2012 Year-End Report. On February 4, 2013, RAD sent the
5 Committee two Nonfiler Notices (RQ-7s) regarding the 2012 July and October Quarterly
6 Reports, respectively, and on February 22, 2013, RAD sent an RQ-7 as to the 2012 Year-End
7 Report.⁴ The Committee has not filed any additional reports.

8 **B. Legal Analysis**

9 Under the Act, an individual becomes a "candidate" for federal office when he or she has
10 received or made in excess of \$5,000 in contributions or expenditures. 2 U.S.C. § 431(2). Upon
11 becoming a candidate, the individual and his or her principal campaign committee are subject to
12 registration and reporting requirements under the Act. The individual must file a Statement of
13 Candidacy, designating a principal campaign committee therein, no later than fifteen days after
14 becoming a candidate. 2 U.S.C. § 432(e)(1); 11 C.F.R. § 101.1. The committee then has ten
15 days to register with the Commission by filing a Statement of Organization. 2 U.S.C. § 433(a);
16 11 C.F.R. § 102.1. Thereafter, the committee must file financial disclosure reports, including

¹ The 2011 Year-End Report appears to be inaccurate: the Committee states that none of the contributions reported came from the candidate, Report at 3, but the itemized list indicates that at least seven contributions were made by Treva Johnson. Report at 15-17. The Committee reflected the contributions on line 11(a) as total contributions to the Committee, as opposed to line 11(d) as required.

² The 2012 April Quarterly Report appears to be incorrect: the Committee identified the Report as a "January Year-End Report," and only provided activity for the period of January 1 to March 30, excluding March 31.

³ The 2011 Year-End Report and 2012 April Quarterly Report were not posted to the FEC website until February 4, 2013, because the reports were mistakenly filed with the Office of General Counsel instead of the Reports Analysis Division.

1 filing quarterly reports no later than the fifteenth day after the last day of each calendar quarter.

2 2 U.S.C. § 434(a)(2)(A)(iii).

3 The Committee admits that it failed to file a timely 2011 Year-End Report and 2012

4 April Quarterly Report. Additionally, the Committee has failed to file its 2012 July and October

5 Quarterly Reports, as well as its 2012 Year-End Report, in violation of 2 U.S.C.

6 § 434(a)(2)(A)(iii). The Committee's 2012 April Quarterly Report, however, indicates minimal

7 activity; the Committee received \$355 in receipts during the covered period.

8 Due to the lack of activity found on its 2012 April Quarterly Report, it does not appear

9 that the Committee was actively pursuing contributions or making significant expenditures after

10 March 2012. Thus, the Commission exercised its prosecutorial discretion and dismissed this

11 matter under *Heckler v. Chaney*, 470 U.S. 821 (1985) as to the Committee's failure to file, and

12 timely file, disclosure reports with the Commission under 2 U.S.C. § 434(a)(2)(A)(iii). The

13 Commission also reminded the Committee of the requirements under 2 U.S.C.

14 § 434(a)(2)(A)(iii) for principal campaign committees to file quarterly reports with the

15 Commission no later than the fifteenth day after the last day of each calendar quarter.